

Planning & Zoning Commission Meeting
Minutes of December 7, 2011
1st Floor North Conference Room - City Hall

Present: Chairman Mark C. Brooks, Vice-Chairman Nathaniel Cannady, Kristy Carter, Jeremy Goldstein, Jane Gianvito Mathews and Paul Smith

Absent: Ms. Holly P. Shriner

Pre-Meeting - 4:30 p.m.

The Commission was introduced to Ms. Christy Edwards who will be taking over the administrative responsibilities for the Commission from Ms. Rita Baidas. The Commission and staff then had a brief discussion regarding (1) items on the agenda; and (2) items scheduled for the January 4 agenda.

Regular Meeting - 5:00 p.m.

Chairman Brooks called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

Administrative

Vice-Chairman Cannady moved to approve the November 2, 2011, minutes with the following amendments: (1) a typographical error; and (2) further detail regarding the retaining wall heights on The Aventine project. This motion was seconded by Ms. Mathews and carried unanimously by a 6-0 vote.

Chairman Brooks was pleased to recognize new elected City Councilman Marc Hunt, who was in attendance.

Agenda Items

- (1) Review of the Conditional Zoning request for the project identified as White Oak Grove Apartments located at 275 and 281 Hazel Mill Road to rezone from RM-8 Residential Multi-Family Medium Density District to RM-16/Conditional Zoning Residential Multi-Family High Density District/Conditional Zoning for the development of 108 apartment units housed in three buildings. The owner is White Oak Grove, LLC and the contact is Bob Grasso. The properties are identified in the Buncombe County tax records as PINs 9638.39-9131 and 6188.**

City Attorney Oast said that Chairman Brooks has a conflict on this matter and should be recused from participating. Therefore, Chairman Brooks moved to recuse himself from participating in this matter. This motion was seconded by Vice-Chairman Cannady and carried unanimously on a 6-0 vote. At this time, Chairman Brooks handed the gavel over to Vice-Chairman Cannady to preside over this matter.

Urban Planner Julia Fields said that while the project did not trigger the City's thresholds to require a Traffic Impact Study, the Commission recommended (by a 3-0 vote) that the project be continued to the November 2nd meeting so that a Traffic Impact Study (TIS) could be undertaken by the applicant. That report was not received in time for the Transportation Department to provide review and analysis ahead of the November meeting so the project was continued to this meeting.

Ms. Fields reiterated that at the meeting on September 7, 2011, the Planning and Zoning Commission postponed action on the conditional zoning application for White Oak Grove

Apartments proposed for property at the corner of Hazel Mill Road and Clayton Avenue from RM-8 to RM-16/Conditional Zoning, to allow for the development of 108 apartments in three buildings. There are three proposed access points – two on Clayton and one on Hazel Mill Road. The reason for the postponement was to allow time for the preparation and review of a traffic impact study for the proposed development. Per the City's Unified Development Ordinance (UDO), a traffic impact analysis is required only if a development will result in total peak hour trips equal to or greater than 100 peak hour trips using trip generation rates from the Trip Generation Manual published by the Institute of Transportation Engineers. The White Oak Grove Apartments development did not meet this threshold so a traffic impact analysis was not initially completed.

At the meeting in September, members of the Commission felt the need to see a traffic impact study even if one was not warranted per the UDO. A study was subsequently completed by Mark Teague, a traffic engineer with J.M. Teague Engineering and this study has been reviewed by our Transportation Department.

Ms. Fields said that one thing that was recommended in the traffic impact study was that the access point on Hazel Mill Road should be right-turn in, right-turn out only. Right before this meeting she did receive from the applicant their drawings showing that change.

Another question that arose prior to this meeting was the location of the dumpsters, and their revised drawings indicate their location. The location of the proposed dumpster area will be analyzed prior to final Technical Review Committee (TRC) review.

The project meets some City goals as 10% is proposed to be affordable and is also proposed to meet the N.C. Healthy Built Home and Energy Star standards.

When Ms. Carter asked about the small stream that crosses into the northern end of the site, Mr. Bob Grasso, applicant, said that there is no water on the property. Ms. Field said that it could be a drainage area that showed up on the GIS but she will check on that before it goes back for final TRC review.

Mr. Jeff Moore, City Traffic Engineer, reviewed the traffic impact study performed by Mr. Mark Teague, traffic engineer with TM Teague Engineering. We directed Mr. Teague to do a worse-case scenario study. The study analyzed no traffic using Hawkins Lane (as if the car dealership on Hawkins Lane closed the access across their parking lot, pushing all traffic to the traffic signal at N. Louisiana Avenue). If the dealership does not close their access, the conditions would be even better than predicted by the study.

- ? Without the development in the year 2013, the level of service for the AM peak hours "A" for all four approaches to that intersection, "B" for northbound Louisiana, "B" for westbound Hazel Mill Road, "B" for southbound Louisiana, and "A" for eastbound Louisiana.
- ? With the development in the year 2013, the level of service drops on westbound Hazel Mill Road to a level of service "C", which is still under capacity for that intersection.
- ? Without the development in the year 2013, the queue links for the AM peak is approximately 3-4 vehicles on all four approaches. For the PM peak it is approximately 6-7 vehicles on westbound Hazel Mill and southbound Louisiana.
- ? With the development in the year 2013, the queue links for the AM peak stays in the 3-4 vehicle range but the PM peak goes to approximately 12 on the westbound Hazel Mill and 7 on southbound Louisiana and 2 vehicles eastbound on Hazel Mill Road.

In summary, Mr. Moore said that the road itself can handle the traffic according to the trip methodology from the Trip Generation Manual published by the Institute of Transportation Engineers. The intersection itself, according to the projections, would not be overloaded by the additional traffic.

In response to Ms. Mathews, Mr. Moore said (1) the AM peak hour is the highest consecutive 15-minute period between 7-9 a.m.; (2) the PM peak hour is from 4-6 p.m.; (3) that the traffic impact study does not take into account school buses.

When Ms. Carter asked what improvements would be made to the intersection of Clayton Avenue and Hazel Mill Road, Ms. Fields said that they propose to widen Clayton Avenue from 18-feet to 24-feet along their property line and add a sidewalk on Clayton Avenue, with a request for a sidewalk fee in lieu of on Hazel Mill Road.

Vice-Chairman Cannady opened the public hearing at 5:19 p.m.

Mr. Bob Grasso, applicant, said they originally received approval from the Technical Review Committee for a duplex development but because of the economic conditions they have changed directions and are now requesting conditional zoning for an apartment complex. They are requesting conditional zoning to take the number of units per acre up from 8 to 16. He said the three buildings are 4/5 splits and have held them to the interior of the property. He said that 10% of their units will be affordable housing. Their buildings will meet with N.C. Healthy Built Home program and Energy Star certifications. He felt the site is good for residential development because of its proximity to downtown, Patton Avenue, shopping and the transit corridor. He felt the project aligns with the City's smart growth policies. They did have the traffic impact study performed and provided the right-in, right-out only on Hazel Mill Road. They are also widening Clayton Road with a bus stop shelter. They were pleased with the results of the traffic impact study as it was a worse-case scenario. Because this is on a major bus line and because of the proximity to downtown they anticipated that people will be riding the bus. He asked the Commissioners for their approval. Regarding the dumpsters location, he did not alter the parking space count.

Mr. Mike Newman, adjoining property owner on Nancy Street, felt that growth and prosperity are not going to be accomplished by bringing 108 more rental units into the area. Single-family homes are the foundation of the neighborhood. One hundred and eight rental units do little to provide stability for the prosperity for the area. Last year, Section 8 homes were built to the east of his property resulting in not only a negative impact of property values but an idea of the type of residential construction that will take place in the future in this location. Development of single-family homes that are affordable would make sense at that location. It would attract people who want to make a commitment to the neighborhood by investing money into their homes. Renters do not make that same type of financial commitment to a neighborhood. The development is out of character with the rest of the neighborhood. His main concern is the increased traffic. Hazel Mill Road is very narrow, not well maintained and full of sharp curves. Louisiana Avenue is already a high traffic street. He could not see how these streets will accommodate the increased traffic from this development. He also expressed concern that from his home he will be looking directly at the dumpsters.

Mr. Jay Marlow, Asheville resident, showed the Commissioners a video of the intersection of Hazel Mill Road and N. Louisiana Avenue at 5:10 p.m. one evening, with Hawkins Lane being open. The video showed that for a 12 minute period, 14 cars were constantly lined up on Hazel Mill Road. When cars try to make a left onto N. Louisiana Avenue, traffic would continue to back up. The problem with this development is that it will funnel the projected 70-80 cars to this one intersection.

Vice-Chairman Cannady closed the public hearing at 5:32 p.m.

When Ms. Mathews asked if the applicant looked at a straight rezoning or any sustainability density bonuses as an option to increase density vs. a conditional zoning request, Mr. Grasso replied he had not as this was the path staff suggested he follow. Assistant Planning

& Development Director Shannon Tuch noted that the project would not be eligible for a density bonus tool as the project does not meet the criteria (too far from a main corridor).

In response to Vice-Chairman Cannady, Mr. Grasso said that they will provide a buffer all around the property, which is not required. He tried to keep the impact to adjoining property owners to a minimum. The proposed dumpster location (which dumpster will have a fence and screening around it – a UDO requirement) is further up from Mr. Newman's property and is at least 40 feet from the property line.

In response to Ms. Mathews, Mr. Grasso said that the hedgerow between Nancy Street and the subject property is on their property.

When Mr. Smith asked if there was a way for the project to work with less apartments, Mr. Grasso felt this would not be a viable project. He noted that 113 units are permitted and they are requesting 108 units. Regarding the increased traffic from the development onto Hazel Mill Road, Mr. Grasso said that most likely, the people coming home to the complex will be going in the opposite way of the video. Others would be turning into the development before they reach the intersection of Hazel Mill Road and N. Louisiana Avenue.

When Mr. Goldstein asked how many units were allowed under the RM-8 zoning, Ms. Field said 56.6 units are allowed on the site.

Upon inquiry of Ms. Carter and Vice-Chairman Cannady, Mr. Moore replied there is no protected left turn onto N. Louisiana Avenue from Hazel Mill Road. It was the consensus of the Committee that regardless of the outcome of this project, they requested Mr. Moore contact the N.C. Dept. of Transportation to see about a protected left turn onto N. Louisiana Avenue from Hazel Mill Road.

Mr. Goldstein sees that the project meets smart growth goals for the City; however, he felt it is out of scale with the surrounding area that contains mostly single-family homes.

Mr. Smith agreed with Mr. Goldstein and believed there are existing traffic concerns.

Ms. Mathews noted that the project has tried to align with City standards, e.g., set buildings back, provide affordable housing, complying with N.C. Healthy Built standards; however, the scale of the project is quite large in contrast to the neighborhood. She felt the use of apartments in that location is a benefit, but was concerned with the amount of units. If the project has fewer units, with all the benefits outlined, it could be a good project.

In response to Ms. Carter, City Attorney Oast said that this is a conceptual site plan and there are certain changes that can be made to conditional zoning projects by staff. The Code outlines what staff can approve without bringing the project back for Planning & Zoning Commission approval.

When Ms. Mathews asked if the Commission can direct the applicant to bring back a smaller project, City Attorney Oast said that conditional zoning is something that the developer has to ask for, so unless the developer is willing to ask for something less, the Commission can't require something less. He developer can re-think the project and come back to the Commission with another application or a revised one.

In response to Vice-Chairman Cannady, City Attorney Oast said that if the Commission denies this project, it will automatically go to City Council with a negative recommendation by the Commission. Ms. Tuch said that if City Council denied the project, the applicant would have to wait one year or do a substantially different project.

Mr. Grasso requested a continuance to the Commission's January 4, 2012, in order to give him an opportunity to meet with City staff to see what they could change with the conditional zoning request.

Ms. Mathews suggested a reduction in the height of the buildings.

When Mr. Grasso requested the January 4 continuance date, Ms. Tuch said that if the applicant submits new plans, they must be submitted in time to allow staff review, and depending on the extent of the changes, the project may have to go back through the Technical Review Committee. She noted that if they are not prepared to present at the January 4 meeting, the project will have to be continued again.

Ms. Carter moved to continue this matter until January 4, 2012. This motion was seconded by Mr. Goldstein and carried unanimously on a 6-0 vote.

At this time, Chairman Brooks resumed his duties as Chairman.

(2) Ordinance amending Article 14 of Chapter 7 of the Code of Ordinances to update temporary use standards.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending Article 14 of Chapter 7 of the Code of Ordinance to update temporary use standards.

She said that over the last several months, interest in a collection of amendments has grown and been intermittently discussed amongst staff and the Planning & Economic Development Committee. One of the amendments discussed were some changes to Article XIV – Accessory and Temporary Uses and Structures, to provide greater flexibility in some instances, and improved enforcement in others.

Recent changes in the economy have resulted in new practices and warrant a reexamination of applicable standards. Specifically, interest in temporary uses has increased over the last several years to include a growing interest in new large temporary (special) events that can have a positive effect on the local economy, as well as smaller temporary uses that wish to locate in residential areas. Additionally, on-going challenges related to enforcement of portable on-demand storage containers (PODS) has led stakeholders in the community to request an application process associated with this temporary use to ensure that they do not exceed their maximum allowable time frames and that they do not enjoy an unfair advertising advantage.

There are three issues being addressed through this amendment:

1. Permitting for Portable On Demand Storage containers (PODS) – PODS are currently allowed without permit in both commercial and residential areas. In residential areas, they are limited to 14 consecutive days, two times a year; and in commercial areas for 60 days, two times a year. There have been on-going enforcement issues related to such containers exceeding their allotted time periods in commercial areas. In addition, concerns have been received that these same containers are being used as off-premise advertising. As a result the staff is proposing requiring permits for containers in commercial areas that are in front of the principle structure or visible from public thoroughfares and in prohibiting signage on the containers, similar to the prohibition for signs on vehicles when not located on the business property.

This amendment will be to require a permit for PODS containers in commercial districts, particularly those that are visible from the boundary of the property. Those that are not visible from the boundary of the property will continue to be allowed without a permit. This change is to

help primarily with enforcement. The concern is that these containers are being used only for the purpose of advertising.

The proposed ordinance also recommends removing identification options for these containers since because they are visible from the thoroughfare. This is primarily an equity or fairness issue because no other business is afforded the opportunity for off-premise advertising, except what is allowed on billboards.

2. Temporary Uses in Residential Districts - Temporary uses have not been permitted in residential districts unless a function of a legal and conforming, non-residential use such as a fundraiser held to support a local school or charitable organization. These legal, non-residential uses often include large surface parking lots and there has been an emerging interest in being able to use these areas for privately managed (or supported by the non-residential use) farmers/tailgate markets or produce stands that may benefit the community in which it is located. The most likely sites for these would be the parking areas of churches or schools.

This amendment will allow for options for fruit and vegetable markets as a temporary use in residential districts – only on conforming non-residential properties in residential districts. Essentially for those schools, libraries, churches, etc. Many of those uses often have moderate or large parking lots. That is a way for the parking lot to be used on the weekend for something like a small tailgate market. We are limiting it specifically to these markets and not opening it up to carnivals or fairs or other temporary uses that could potentially be more obtrusive for a neighborhood setting.

3. Temporary Use Thresholds - Temporary uses can range in character, duration and size. Some temporary uses are on-going, recurring uses such as the local tailgate markets; others are seasonal and intended to last only a short designated period of time, typically 30-60 days. Growing in popularity, however, have been temporary uses that may be better classified as temporary “events” that last only 1-2 days. These events vary significantly in size and the larger the event, the greater the need for identification as well as greater the need for review. This amendment proposes to break special short-term events into three thresholds and adjust the review accordingly.

This amendment is for signage for large temporary special events. The application process for an outdoor special event on private property is through a temporary use application process. That automatically gives you 32 sq. ft. We have noticed a growing interest in these outdoor special events that are drawing well over 100 people at any one point in time. We have had, or will have, events like Moogfest and the Southern Conference, where the attendance will be in the thousands. We are trying to attempt to provide some additional signage. The events that have 100 people at any given time may utilize up to 64 sq. ft. of temporary signage. The other is for the large events with an anticipated attendance of over 1000 people per day. They are not limited in their signage but must submit a signage package along with a separate sign permit for review and approval at the discretion of the Planning Direction. The Plan must include detailed descriptions of the signs including purpose, type, message, location, size, height, and fasteners. Only those signs that would not otherwise be prohibited may be considered and all other applicable standards shall apply.

4. Also included in this ordinance is a small housekeeping amendment intended to clarify that temporary mobile food vehicles must leave a site every night or be parked away from the public thoroughfare.

This proposal does not directly relate to the goals outlined in the SOP but is most closely aligned with the goal for “job growth and community development” by balancing business needs with community needs and concerns.

Pros:

- ? Provides additional identification for larger temporary events.
- ? Provides opportunity for temporary events in residential areas.
- ? Addresses an on-going enforcement issue and disparate enforcement of off-premise signage/advertising.

Cons:

- ? Contributes to the complexity of a permit review.
- ? Increases the need for permit review.

The fiscal impact will be difficult to determine - increased review times and permit coordination is likely; however, a separate fee proposal will attempt to mitigate this. Costs associated with enforcement are expected to neither increase nor decrease.

City staff recommends approval of this wording amendment.

When Ms. Carter expressed concern over the subjectivity of enforcement regarding the visibility of PODS containers, Ms. Tuch said that it's difficult to write a standard that addresses all of the potential scenarios so staff does have to exercise some discretion.

In response to Ms. Carter about the regular business hours of a primary use, such as a church, Ms. Tuch said that the hours would be whatever the primary function of the use on the property would be, noting that a church wouldn't support having a fruit/vegetable market on their property during church hours or when a youth group would meet on Wednesday evenings.

Ms. Tuch explained a further amendment (after discussions with enforcement staff) to the proposed ordinance which would eliminate the following words in Sec. 7-14-2 (d) (3) (f) 8 "along with directional signage as needed."

Chairman Brooks opened the public hearing at 6:08 p.m. and when no one spoke, he then closed it at 6:08 p.m.

Based on the above findings and the analysis provided in the report, Vice-Chairman Cannady moved to recommend approval of an amendment to Article 14 of Chapter 7 of the Code of Ordinances to update temporary use standards, with the amendment noted above by Ms. Tuch. This motion was seconded by Ms. Mathews and carried unanimously by a 6-0 vote.

(3) Ordinance amending Article 14 of Chapter 7 of the Code of Ordinances to amend the digital billboard standards.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending Article 14 of Chapter 7 of the Code of Ordinance to amend digital billboard standards.

She said that over the last several months, interest in a collection of sign code amendments has grown and been intermittently discussed amongst staff and the Planning & Economic Development Committee. A digital billboard installed on Merrimon Avenue within the past few months, and one more recently installed on Tunnel Road, have prompted substantial discussion in the community regarding appropriateness and compatibility of this new technology, especially along certain narrower corridors. The purpose of this amendment is to adjust these standards to better ensure compatibility.

The City of Asheville has had sign regulations since 1977 and has gone through a variety of amendments over the years, including a relatively significant amendment in 2004 that limited billboards to certain corridors in the City per a legal agreement with the two largest outdoor advertising companies (Lamar and Fairway). This agreement was prompted both by interest in the community to limit billboards but also by state legislation that severely restricted a

municipality's ability to amortize (eliminate over time) existing billboards. This 10-year agreement included the removal of 10 very high profile billboards along with the support for new standards that would cap the total number of billboards to those that currently existed and would not allow new boards to be added to the inventory, except through annexation. These existing boards would be documented and registered but would be limited to specific corridors. This existing inventory of billboards was to be maintained and could also be recombined, removed, replaced, and relocated per the new separation and spacing requirements outlined in the new ordinance – these are the standards that are commonly referred to as the “Cap and Replace” ordinance.

More recently in 2008, the City was approached with a request to allow digital billboards in exchange for removing older static billboards. While there was significant discussion on this issue (both for and against), the request was ultimately accommodated through an amendment that established new standards specific to the digital technology but would also have to comply with the standard billboard requirements – this included limiting any newly recombined/relocated boards to those corridors specified in the original ordinance. Since 2008, eight new digital billboards have been installed, including one on Merrimon Ave. in North Asheville. The Merrimon Avenue billboard has raised significant concern within the community primarily due to its proximity to existing residential style buildings and its proximity to the edge of the road. The placement of this billboard causes it to have a more looming presence which heightens long-standing concerns over a digital billboard's potential to distract motorists through the bright, changing image. Just within the past week, similar concerns have been expressed by the public regarding a newly placed digital billboard on the intersection of Tunnel Road and S. Tunnel Road.

Given the intensity of community concern over the new digital billboard on Merrimon Avenue, staff thought it important to reexamine the standards regulating the digital boards to see if some adjustments could be made to help address these compatibility concerns. It is important to note that the original standards regulating traditional billboards cannot be amended without agreement from the outdoor advertising companies, or else risk violating the agreement that was accepted in 2004. This would not, however, extend to the new digital standards which were adopted without amendment to the original agreement. These standards could be amended to be more restrictive.

The analysis to understand what would need to change and why, proved interesting. Initially, staff concentrated on two basic standards: 1) separation from residential units, and 2) setbacks from the edge of pavement for corridors with a width of less than 75 feet. However, while adjusting these numbers would likely have the effect of limiting future billboards on narrow sections of the overlay corridors, it did not appear to address all of the concerns related to the compatibility of these signs on corridors such as Merrimon Avenue. Upon closer review, it appears that it may be the general characteristics of the corridor itself that make it less suitable. These characteristics include:

- ? Fairly narrow right-of-way width of 60 feet
- ? Narrow view corridor
- ? No or very little shoulder between the edge of the travel way and the right-of-way line
- ? The number of cross streets
- ? The number of driveway cuts
- ? Back of curb sidewalks
- ? The size of the parcels fronting Merrimon
- ? The density of development
- ? Character of structures (smaller and more residential)
- ? The vertical curve of the road limiting visibility.

When these characteristics are considered in conjunction with one another, that corridor appears to have considerably higher opportunities for distracting interactions, along with other inherent challenges that contribute to the complexity of the driving environment that already

exists. These two factors combined with aesthetic concerns related to the character of the N. Asheville community, appears to result in a greater level of discomfort related to the digital billboard. The only other corridors that exhibit somewhat similar characteristics (although not to as great an extent) are the segment of Tunnel Road just past the tunnel and portions of Sweeten Creek Road.

Staff is recommending that a limited adjustment to the setbacks and separation requirements for narrower corridors be adopted – this would have the greatest effect on Merrimon Avenue and portions of Sweeten Creek Road. An alternative option could be to combine this adjustment with a prohibition of digital billboards on certain corridor segments that meet these congested characteristics. That change would have the greatest effect on Merrimon and the narrower segments of Tunnel Road. A third alternative could be to elect to remove the digital billboard standards in their entirety. The impact of that change would be that no new digital billboards could be added anywhere in the City and those that existed would become non-conforming, which means they cannot be expanded, but the existing billboards can be recombined, removed, replaced, and relocated per the new separation and spacing requirements outlined in the “Cap and Replace” ordinance. We currently have 8 or 9 digital billboards.

This proposal does not directly relate to the goals outlined in the Strategic Operating Plan but is most closely aligned with the goal for “job growth and community development” by balancing business needs with community needs and concerns.

Pros:

- ? Addresses compatibility concerns from residents and motorists while still preserving opportunities for off-premise advertising.
- ? Reduces potential for distractions in other already congested areas.

Con:

- ? Renders existing billboards non-conforming.

City staff recommends approval of this wording amendment.

Ms. Mathews asked if we abolish the digital billboard standards in their entirety, can we then change the existing non-complying digital billboards standards regarding the number of seconds each advertisement is shown. City Attorney Oast would have to research if a change in standards like that could be made retroactive to the current billboards. He said that digital billboards are new enough that the laws are not clear. Non-digital billboards have a statute enacted in 2004 that provides for special protection for billboards. It provides in essence that “no city may enact or amend an ordinance of general applicability to require the removal of any non-conforming lawfully erected off-premises outdoor advertising sign without payment of monetary compensation to the owners of the off-premises sign.”

Mr. Smith said he did not like the digital billboards but felt this is the wave of the future. To eliminate the billboard on Merrimon Avenue would be unfair to those who are advertising on that sign. His concerns included (1) the brightness; (2) the need to reduce the amount of advertising allowed on the sign; and (3) limiting the amount of context for the advertisement. He felt those concerns make the digital billboards a hazard for drivers – similar to texting and driving.

When Ms. Mathews asked if the billboard brightness was violating the dark skies rules, Ms. Tuch said that they are not in that the LED lights are shielded horizontally.

Ms. Tuch said the Commission can change any of the standards that are specific to billboards, e.g., brightness, time, text, and the number of messages, but that would be for any future billboards moving forward.

In response to Vice-Chairman Cannady regarding the enforcement of brightness standards for digital billboards, Ms. Tuch said that brightness was one of the standards that we did benchmarking against other cities. The LED lights are regulated by photocell so the darker the ambient light, the brighter the billboard gets, but it cannot exceed 7500 nits. When the billboards get permitted we require that they supply us the specifications from the manufacturer for that sign that states the brightness range. The cap is 7500 nits. We are fairly confident that the billboards are within the 7500 range, but whether 7500 is appropriate or not is a different question.

In response to Ms. Carter, Ms. Tuch said that each of the 9 corridors have a specific section on that corridor that digital billboards can be located.

Ms. Mathews believes the brightness of the billboards are a safety issue, specifically the one on Sweeten Creek Road. She felt that digital billboards are not Asheville and are a hazard. She would support removing digital billboard standards in their entirety.

There was discussion on how the Commission wished to proceed with this amendment going forward, especially when some Commission members are interested in removing digital billboard standards in their entirety. Ms. Tuch said if the Commission wanted to move forward with the proposed ordinance changes, but also add something about brightness and the duration of image, she thought staff could make those changes and move forward to Council. If the Commission's preference is to remove digital billboard standards, it would be more appropriate to revise the ordinance and bring it back before the Commission next month, before it goes to City Council.

City Attorney Oast said that if the Commission's desire is to repeal the provisions allowing for digital billboards, that is a significant enough change that would need to be re-advertised. If the Commission is talking about re-adjusting the standards Ms. Tuch has explained, that direction could be given to staff and the ordinance could move forward to City Council.

Ms. Carter agrees with Ms. Mathews to eliminate the billboard standards, but in the meantime adopt the ordinance proposed by Ms. Tuch and allow her to come back with an ordinance removing the billboard standards in their entirety.

In response to Ms. Carter, Ms. Tuch said that she was not aware of any more digital billboards in the immediate future. In fact, because of the separation and spacing requirements we are starting to max out available parcels.

Chairman Brooks opened the public hearing at 6:32 p.m.

Mr. Mike Plemmons, representing the Council of Independent Business Owners, said that before any action is taken to eliminate no new digital billboards in the City, the sign companies should be brought into the discussion. The sign companies were very much involved in the existing ordinance.

City Attorney Oast said that the Commission is not repealing the ordinance at this meeting; however, this hearing was legal advertised and sign company representatives had the opportunity to attend and give their input. Ms. Tuch also noted that at the last Commission meeting she spoke with Mr. Justice (attorney whose firm represents the outdoor advertising companies) and advised him that staff was looking at this proposed amendment.

Mr. Alan Escovitz, Vice-President of the Grove Park Sunset Mountain Neighborhood Association, representative of the Coalition of the Asheville Neighborhoods and Co-Chair of the Asheville Billboard Community Action Committee, said that Fairway Outdoor Advertising installed their digital billboard on Merrimon Avenue with no community input, although it was in compliance

with the billboard standards. Their concerns are that the Merrimon Avenue billboard is a safety hazard and distraction for drivers, pedestrians and bike riders on Merrimon Avenue. He said they have obtained 1800 signatures of people opposed to the Merrimon Avenue digital billboard. They believe the digital billboard is inappropriate for an area that is tightly packed along a commercial corridor. The billboard is clearly out of scale for the site as Merrimon Avenue is unique because it is an area closely connected to residential neighborhoods. They are also concerned of the light pollution, dark sky issues, the potential for tagging and graffiti, and the negative impact on our community. He suggested the Planning & Zoning Commission recommend to City Council an amortization plan that brings down the Merrimon Avenue digital billboard and pays the owner of the property for their loss.

Mr. Jay Marlow, Realtor and appraiser in Asheville, spoke against digital billboards.

Planning & Development Director Judy Daniel presented the Commission with a letter from Mr. Steve Rasmussen which supported eliminating digital billboard standards in their entirety. Ms. Tuch also noted that she has received several e-mails and will share those with the Commission as well.

Chairman Brooks closed the public hearing at 6:45 p.m.

Vice-Chairman Cannady felt that further clarification of the proposed ordinance was necessary with input from someone directly involved in that business. He then moved to continue this matter and directed staff to contact the outdoor advertising companies for their input and to ask them what it would cost to buy the sign out. This motion was seconded by Mr. Smith.

Ms. Mathews supported continuing the matter and then instruct staff come back to the Commission with an ordinance repealing the digital billboard standards created in 2008, so no more digital billboards could be erected.

Chairman Brooks felt that including the sign companies in our conversations could result in a positive outcome.

Ms. Mathews would support continuing the discussion about the proposed amendment, but also have on the table a flushed option eliminating future billboards. She felt we will have a lot of dialogue from the general public and the business community, which is also an important aspect of this discussion, which we don't have at this meeting.

City Attorney Oast said the Commission can continue their discussion on the proposed ordinance, and if there is a motion and a majority vote to direct staff to then come back to the Commission with a proposal to abolish digital billboards in the future, they can do that.

Ms. Carter felt the Commission needed to discuss options prior to having staff bring forward any proposed ordinance. She questioned if billboards can be permitted on a conditional use basis.

Ms. Carter felt the next meeting would not have an ordinance proposed, but discussion on the options available for the Commission to consider.

Mr. Smith felt we need to amend the standards for future digital billboards.

City Attorney Oast said that he would have to research whether we can adjust the standards to the existing signs. Again, the technology and the law is so new it's not been fully developed. He could not have that research at the January meeting.

Ms. Mathews noted that if we abolish the digital billboard standards, we will still have the 8 or 9 existing ones.

At the January meeting, Ms. Tuch said that she will summarize this discussion; and be prepared for discussion that includes the other stakeholders (property owners, business community, outdoor advertising representatives) with some options that can include amending the currently proposed ordinance, amending it but adding some revisions to other points (including brightness, duration of the image and number of messages), abolishment of future billboards, and whether billboards can be permitted on a conditional use basis. She will also attempt to find out how much it would cost to remove the billboard on Merrimon Avenue. In staff's analysis they may even come up with other options. She also felt it would be valuable to share with the Commission the report from 2008 and if there is any other background information the Commission would think would be helpful, to let her know.

Chairman Brooks clarified that at the next meeting, staff will be presenting the Commissioners with more information and at that point perhaps vote on a recommendation which would then come back for formal review.

The motion made by Vice-Chairman Cannady and seconded by Mr. Smith carried unanimously on a 6-0 vote.

Other Business

Chairman Brooks announced the next meeting on January 4, 2012, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

Adjournment

At 6:59 p.m., Chairman Brooks adjourned the meeting.